

## **RESOLUTION NO. R-2013-142**

**A RESOLUTION** adopting Findings of Fact supporting a six-month moratorium, enacted October 8, 2013 pursuant to Ordinance No. 2013-048, prohibiting acceptance and processing of applications, and issuance of land use and development permits for, production, processing and retailing of marijuana as authorized pursuant to Initiative 502; and authorizing the City Manager to study and develop appropriate comprehensive land use regulations addressing such issues for consideration by the City Council; and setting public hearing on November 5, 2013.

**WHEREAS**, pursuant to RCW 36.70A.390 and RCW 35 63.200, the City Council of the City of Yakima on October 8, 2013 adopted Ordinance No. 2013-048 imposing a moratorium for six months prohibiting acceptance and processing of applications, and issuance of land use and development permits for, production, processing and retailing of marijuana as authorized pursuant to Initiative 502, and authorizing the City Manager to study and develop appropriate comprehensive land use regulations addressing such issues for consideration by the City Council; and

**WHEREAS**, RCW 36.70A.390 and RCW 35 63 200 require the City Council to hold a public hearing within sixty days after imposition of a moratorium to receive evidence and testimony regarding imposition of the moratorium, to consider whether such moratorium should be modified or continue in effect as originally adopted, and to adopt findings of fact supporting such decision; and

**WHEREAS**, the City Council has held the required public hearing on November 5, 2013 pursuant to notice duly published, and having considered all evidence and testimony presented and the record herein, hereby makes the following:

### **Findings of Fact**

1. The City Council of the City of Yakima has authority pursuant to RCW 36.70A.390 and RCW 35 63.200 to adopt a moratorium to preserve the status quo pending development of comprehensive land use controls, regulations and procedures concerning marijuana, all as authorized by Initiative 502 and regulations implementing the provisions of such Initiative ("Initiative 502" or the "Initiative")
2. The Initiative, which was approved by voters of Washington State on November 6, 2012, authorized the Washington State Liquor Control Board ("WSLCB") to adopt regulations and begin implementation of the Initiative and such regulations by December 1, 2013, and to thereafter issue licenses for marijuana production, processing and retailing. The WSLCB has adopted such regulations on or about October 16, 2013, which will become effective on November 18, 2013. The WSLCB is therefore in position to begin review of applications and issuance of licenses for marijuana production, processing and retailing on and after December 1, 2013
3. The Initiative and regulations implementing such law state prohibit location of licensed marijuana production, processing and retail outlets within 1,000 feet of certain protected areas such as schools, public parks, public transit centers, libraries and other protected uses, but make no provision for protection of residential areas,

commercial zones and other zoning districts. New WAC 314-55-020(11) provides that the "issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements." Such rule recognizes the land use regulatory authority granted to cities under the state constitution to impose appropriate zoning and land use controls on the location of marijuana production, processing and retail outlets.

4. The City Council finds and determines that the City of Yakima needs time to consider additional zoning regulations and land use regulations which would deal specifically with such marijuana production, processing and retailing as authorized pursuant to Initiative 502, and the City Council has therefore decided to impose a moratorium for the term of six months, commencing on the effective date of this ordinance and extending through May 6, 2014, in order to study the issue as determined by the City Council and to consider adopting appropriate regulations.
5. The City Council finds and determines that imposition of a moratorium is necessary to (a) provide the City with an opportunity to study the issues regarding location, zoning and land use regulation of marijuana production, processing and retailing, and to prepare appropriate revisions to the City's codes and regulations; (b) to protect the health, safety and welfare of the citizens of Yakima by avoiding and ameliorating negative impacts of the proliferation of locations for marijuana production, processing and retailing; and (c) avoid applicants possibly establishing vested rights contrary to and inconsistent with any revisions the City may make to its regulations and codes as a result of the City's study of this matter;
6. The existing codes, ordinances and procedures of the City of Yakima do not adequately address land use regulation of marijuana production, processing and retailing. The City Council further finds and determines that the City of Yakima needs time to consider additional zoning and land use regulations which would deal specifically with the production, processing, and retailing of marijuana or marijuana products within the City of Yakima, and the City Council therefore finds and determines that the moratorium for the term of six months adopted and implemented in Ordinance No. 2013-048, extending through May 6, 2014, is necessary and appropriate in order to study the issues and to consider adopting appropriate regulations.
7. The City Council finds and determines that the moratorium adopted and implemented pursuant to Ordinance No. 2013-048 should be effective according to its terms, and that such is in the best interests of residents of the City of Yakima and will promote the general health, safety and welfare; and

**WHEREAS**, the City Council concludes, based on the evidence and testimony presented at public hearing on November 5, 2013 and on the record herein, that the above Findings of Fact should be adopted and the moratorium imposed pursuant to Ordinance No. 2013-048 should remain in effect as adopted; now, therefore

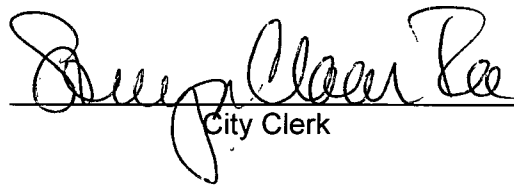
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:**

1. The Findings of Fact set forth above are hereby adopted as the Findings of Fact supporting the adoption, implementation and continuation of the moratorium adopted October 8, 2013 pursuant to Ordinance No. 2013-048 according to its terms
2. The City Manager of the City of Yakima is hereby authorized and directed to perform those duties and functions set forth in Ordinance No. 2013-048, including but not limited to, development of proposed comprehensive land use regulations pertaining to the production, processing and retailing of marijuana and any issue ancillary thereto.

ADOPTED BY THE CITY COUNCIL this 5<sup>th</sup> day of November, 2013.

  
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Micah Cawley, Mayor

ATTEST

  
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City Clerk

